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December 22, 2003

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The Honorable John D. Ashcroft
Attorney General of the United States
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Mr. Attorney General:

We are writing to ask that you recuse yourself from the U.S. Department of Justice's investigation into allegations that high-ranking Republican officials engaged in bribery and extortion in attempts to coerce Rep. Nick Smith (R-MI) into supporting Medicare legislation as it was pending in the House. We believe recusal is not only consistent with applicable legal guidelines, but will help instill greater confidence in the impartiality and fairness of the Department's investigation.

In the instant situation, it would appear that you have relationships with several persons who might be involved in the investigation, namely Health and Human Services Secretary Tommy Thompson, Speaker of the House J. Dennis Hastert (R-IL), and House Ways & Means Committee Chairman Bill Thomas (R-CA).¹ For example, we would note that both you and Secretary Thompson are Cabinet members of the Bush White House, which was a strong proponent of the bill in question. By heading the Justice Department inquiry, you essentially are investigating your colleague; this alone could warrant your disqualification from the case.

It also goes without saying that Secretary Thompson, Speaker Hastert, and Chairman Thomas are all leading officials in the Republican party. Any investigation into potential misconduct by them would have negative ramifications for the Republican party as a whole, as well as the President for whom you work.

¹See David S. Broder, *Time was GOP's Ally on the Vote*, WASH. POST, Nov. 23, 2003, at A1.

Justice Department regulations provide that, unless a supervisor otherwise permits, no employee should participate in a criminal investigation if he or she has a personal or political relationship with a person either whose conduct may be in question or who may have an interest in the outcome.² Moreover, the U.S. Attorneys' Manual mandates that attorneys with personal interests in cases or with professional relationships with parties or counsel recuse themselves from the matter.³

This basic principle of avoiding direct conflicts through recusal is confirmed in other guidelines for attorneys applicable in this case. For example, the District of Columbia Bar Rules of Professional Conduct specify that an attorney may not participate in a matter in which his or her judgment "will be or reasonably may be adversely affected by the lawyer's responsibilities to or interests in a third party."⁴ The American Bar Association Rules of Professional Conduct also recommend that a lawyer not involve him or herself in a case where the representation would be limited by the lawyer's personal interests.⁵

The very foundation of our representative democracy is called into question if members face financial threats by members of their own political party when they cast their votes. As a result, we believe it is imperative that the Department's investigation into this matter be conducted in the most impartial and fair manner possible. We believe that your recusal is consistent with that goal.

We look forward to your prompt response to this letter. Please reply to us through Perry Apfelbaum or Ted Kalo of the Judiciary Committee staff, 2142 Rayburn House Office Building, Washington, DC 20515 (tel: 202-225-6504; fax: 202-225-4423).

²28 C.F.R. § 45.2(a) (2003).

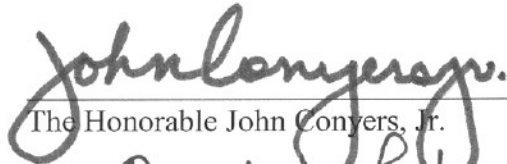
³U.S. DEP'T OF JUSTICE, U.S. ATTORNEYS' MANUAL § 3-2.170.

⁴DISTRICT OF COLUMBIA BAR, RULES OF PROF. CONDUCT 1.7(b)(4) (an attorney may not participate in a matter in which his or her judgment "will be or reasonably may be adversely affected by the lawyer's responsibilities to or interests in a third party or the lawyer's own financial, business, property, or personal interests.").

⁵AMERICAN BAR ASS'N, MODEL RULES OF PROFESSIONAL CONDUCT 1.7, 1.16 (2003) (recommending that a lawyer not represent a client where the representation either would be limited by the lawyer's personal interests or would violate one of the rules of conduct.).

The Honorable John D. Ashcroft
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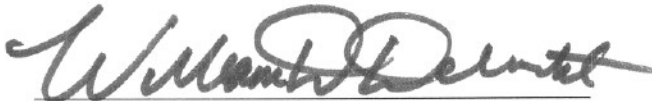
Sincerely,



The Honorable John Conyers, Jr.



The Honorable Melvin L. Watt



The Honorable William D. Delahunt



The Honorable Jerrold Nadler



The Honorable Maxine Waters

cc: The Honorable William E. Moschella
Assistant Attorney General
U.S. Department of Justice

The Honorable F. James Sensenbrenner, Jr.
Chairman
U.S. House Committee on the Judiciary